IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 37829 of 2007(C)

PETITIONER:

M/S. ECOWOOD LTD.,
ALAPPUZHA, REPRESENTED BY ITS DIRECTOR.

BY ADV. SRI.P.V.JYOTHI PRASAD

RESPONDENTS:

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1. THE DEPUTY COMMISSIONER (APPEALS),
KOLLAM.

2. THE ASSISTANT COMMISSIONER (ASSMT.),
COMMERCIAL TAXES, SPECIAL CIRCLE, ALAPPUZHA.

BY GOVERNMENT PLEADER SRI C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 37829 of 2007

Dated: December 19, 2007

JUDGMENT

Challenge is against Ext.P5, a conditional order passed by the Appellate Authority. By this order stay has been granted to the petitioner on its remitting 50% of the tax and furnishing security for the balance amount.

2. The main contention is that being a 100% export oriented unit, petitioner is entitled to exemption from levy of tax as provided in the notification SRO No.1090/99. It is seen that this entitlement of the petitioner was upheld by the Tribunal in Ext.P2. However, this benefit of exemption has been declined by the assessing authority in Ext.P4 on the ground that a revision against Ext.P2 order of the Tribunal has been filed.

3. However, learned counsel for the petitioner asserts that the revision petition against Ext.P2 has not been admitted, nor the delay condoned. In view of this I feel that the petitioner has made out a prima facie case for a complete stay.

4. Accordingly, I quash Ext.P5 and direct that pending disposal of Ext.P4 appeal, there will be a stay of recovery of the amount due under Ext.P3 order of assessment for the assessment year 2002-03. The Appellate Authority shall dispose of the appeal as expeditiously as possible.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-